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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/776,714	02/06/2001	Gary M. Katz	PIP-69A-KATZ	2896
31518	7590	09/10/2008	EXAMINER	
NEIFELD IP LAW, PC 4813-B EISENHOWER AVENUE ALEXANDRIA, VA 22304			ALVAREZ, RAQUEL	
			ART UNIT	PAPER NUMBER
			3688	
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Please find below and/or attached an Office communication concerning this application or proceeding.

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SEP 09 2008

TECHNOLOGY CENTER 3600

In re Application of :
Gary M. Katz : DECISION ON PETITION
Application No. 09/776,714 : REGARDING RESTRICTION
Filed: February 6, 2001 : REQUIREMENT
Attorney Docket No.: PIP-69A-KATZ :
For: METHOD AND SYSTEM FOR TIMING :
PROMOTIONS BASED ON PRIOR :
RECEIPTS :

Applicant's petition filed on January 13, 2005 requests reinstatement of withdrawn claims 59-61 under an election by original presentation restriction as set forth in the final Office action mailed January 7, 2005. Applicant further request an examination on the merits of all pending claims.

The petition is **GRANTED**.

A review of the record reveals that the Office action mailed January 7, 2005 set forth an election by original presentation requirement which resulted in the withdrawal of newly added claims 59-61 that added the limitation that the method was being performed at a vendor location site at a check-out counter in a store. This petition was then timely filed.

Applicant's petition alleges that the election requirement is improper because there would be no burden on the examiner to search for prior art teaching of performing the claimed actions at a vendor location site at a check-out counter in a store. After reviewing the original claims and the newly added group of claims 59-61, it has been found that both groups receive the identification of the customer, identify one or more parameters related to promotions received by the customer, and determine a time to provide a promotion to the customer based on the one or more parameters. The only difference between the two groups is that the second group specifically identifies the location at which the steps are being performed, while the first group does not makes such a distinction. However, since the location does not affect the steps being performed and no other part of the vendor location site is being used within the claims, it is not deemed to be a significant burden on the examiner to examine the second group. This is apparent in that there is no reason why such a narrowing of the claimed systems to a specific location, such as a vendor location site, could not have been entered as a dependent feature in the first group.

For the foregoing reasons, the examiner's election requirement is improper.

The Examiner's Answer mailed December 14, 2007 is hereby vacated. The application is being forwarded to the examiner for consideration of all the claims, including previously withdrawn claims 59-61. An appropriate Office response will follow in due course.



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